

United States District Court

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

§

§

vs.

§

Case No. 4:03cr159(10)

§

(Judge Brown)

PAUL WAYNE LASHLEY

§

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 31, 2006 to determine whether the Defendant violated his supervised release. The Defendant was represented by William Stith. The Government was represented by Randall Blake.

On May 26, 2004, the Defendant was sentenced by the Honorable Paul Brown to 16 months custody followed by a 2-year term of supervised release for the offense of Conspiracy to Commit Fraudulent Use of Access Devices. On January 4, 2005, Defendant completed his period of imprisonment and began service of his supervised term.

On January 3, 2006, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant violated the following conditions: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall refrain from any unlawful use of a controlled

substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substance, except as prescribed by a physician; (4) Defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons; and (5) Defendant shall participate in a program of testing and treatment for drug abuse under the guidance and direction of the U.S. Probation Office until such time as Defendant is released from the program by the probation officer.

The petition alleges that the Defendant committed the following acts: (1) On January 3, 2006, Defendant was arrested and charged with theft over \$50 and Forgery of a Financial Instrument by the Denison Police Department; (2) On May 8, 2006, Defendant pleaded guilty to Failure to Identify, Giving False/Fictitious Information and was sentenced to 90 days in jail ; (3) Defendant submitted urine specimens on May 26, 2004, June 3, 2004, June 14, 2004 and September 7, 2005 which tested positive for methamphetamine; (4) Defendant has failed to maintain employment and has been unemployed since August, 2005; (5) Defendant has failed to participate in the drug testing program as instructed by failing to call the random drug testing line on September 9 and 18, 2005; October 12, 13, 14, 15, 16, and 17, 2005; November 4, 6, 7, 8, 9, 11, 12, 19, 20, 26, and 28, 2005; and December 3 and 11, 2005; (6) Defendant failed to report as instructed for random drug testing on November 11, 16, 17, and 23, 2005 and December 5, 2005; and (7) Defendant

failed to participate in treatment as instructed by failing to attend his scheduled treatment sessions in the month of September 2005, and has not reported to the agency since his last urine specimen on September 20, 2003.

Prior to the Government putting on its case, the Defendant entered a plea of true to the above listed violations. At the hearing, the Court recommended that the Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirteen (13) months, to include time served since January 9, 2006, with no supervised release to follow.

Signed this 1 day of August, 2006.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE